

SERVICE DATE – LATE RELEASE FEBRUARY 17, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1081X

SAN PEDRO RAILROAD OPERATING COMPANY, LLC—ABANDONMENT
EXEMPTION—IN COCHISE COUNTY, AZ

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: February 17, 2006

By decision served February 3, 2006, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by San Pedro Railroad Operating Company, LLC (SPROC) of approximately 76.2 miles of railroad line in Cochise County, AZ, as follows: (1) the Bisbee Branch, between milepost 1085.0 at Bisbee Junction and milepost 1090.6 at Bisbee, a distance of 5.6 miles; and (2) the Douglas Branch (a) between milepost 1097.3 near Paul Spur and milepost 1106.5 near Douglas, a distance of 9.2 miles, (b) between milepost 1055.8 near Charleston and milepost 1097.3 near Paul Spur, a distance of 41.5 miles, and (c) between milepost 1040.15 near Curtiss and milepost 1055.8 near Charleston, a distance of 19.9 miles, subject to public use, environmental, and standard employee protective conditions. The exemption was scheduled to become effective on March 5, 2006, unless an offer of financial assistance (OFA) was filed on or before February 13, 2006.

On February 13, 2006, Sonora-Arizona International LLC (Sonora) filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire line for \$5,400,000, the net liquidation value (NLV) set forth in the NLV estimate submitted by SPROC in this proceeding as Exhibit F to its petition.¹ On February 17, 2006, SPROC filed a motion to reject Sonora's OFA, raising questions about Sonora's financial responsibility and asserting that the evidence submitted is not bona fide.

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. See Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981). Sonora has submitted financial

¹ Sonora also filed a motion for a protective order under 49 CFR 1104.14 to file under seal certain confidential and highly confidential documents and information in connection with the OFA. The merits of Sonora's motion for a protective order are addressed in a separate decision being issued today.

information, which, on its face, shows that it has access to sufficient financial resources to acquire and operate the line. Sonora is thus found to be financially responsible, and SPROC's motion to reject will be denied.

Sonora's offer is equal to SPROC's estimated NLV. Because Sonora is financially responsible and has offered financial assistance, the effective date of the exemption authorizing the abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$18,400. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of this proceeding, along with the words "Attention: Office of Proceedings, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. SPROC's motion to reject the OFA is denied.
2. The effective date of the decision authorizing this abandonment is postponed to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
3. If Sonora and SPROC cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase on or before March 15, 2006. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment exemption to become effective.
4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary